

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 NICOLE MORRISON AS ADMINISTRATOR
5 FOR THE ESTATE OF ROBERTO GRANT AND
6 AS MOTHER AND LEGAL GUARDIAN FOR
THE PROPERTY OF SG AND AG, DECEDENTS
MINOR CHILDREN,

PLAINTIFF,

7
8 -against-

Case No.:
17 Civ:6779

9
10 UNITED STATES OF AMERICA, FEDERAL
11 BUREAU OF PRISONS, EXECUTIVE ASSISTANT
12 LEE PLOURDE, CORRECTION OFFICER KERNS
13 AND JOHN AND JANE DOE(S) AGENTS,
SERVANTS AND EMPLOYEES OF DEFENDANTS,
DEFENDANTS.

-----X

14
15 DATE: March 24, 2021

16 TIME: 10:03 A.M.

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19 DEPOSITION of a Medical Expert
20 by a Witness, DR. GILL, taken by the
21 Plaintiff, pursuant to a Court Order and to
22 the Federal Rules of Civil Procedure, held
23 at the above date and time, before Lenaya
24 Lynch, a Notary Public of the State of New
25 York.

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2 A P P E A R A N C E S:
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THE LAW OFFICE OF ANDREW LAUFER, ESQ.

5 Attorneys for the Plaintiffs
6 NICOLE MORRISON as ADMINISTRATOR
7 for the ESTATE of ROBERTO GRANT
8 and as Mother and Legal Guardian
9 for the Property of SG and AG,
10 Decedent's Minor Children
11 264 West 40th Street, Suite 604
12 New York, New York 10018

13 BY: ANDREW C. LAUFER, ESQ.

14 UNITED STATES ATTORNEY'S OFFICE
15 NEW YORK SOUTHERN DISTRICT

16 Attorneys for the Defendants
17 UNITED STATES OF AMERICA, FEDERAL
18 BUREAU OF PRISONS, EXECUTIVE
19 ASSISTANT LEE PLOURDE, CORRECTION
20 OFFICER KERNS AND JOHN AND JANE
21 DOE(S) AGENTS, SERVANTS AND
22 EMPLOYEES OF THE DEFENDANTS

23 US Attorney's Office
24 86 Chambers Street, 3rd Floor
25 New York, New York 10007
BY: JENNIFER C. SIMON, ESQ.

ALSO PRESENT:

LUCAS ISSACHAROFF, ESQ.

* * *

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

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DR. J. GILL

D R. J A M E S G I L L, called as a
witness, having been first duly sworn by a
Notary Public of the State of New York, was
examined and testified as follows:

EXAMINATION BY

MR. LAUFER:

Q. Please state your name for the
record.

A. James Gill.

Q. What is your address?

A. 17 Otter Cove Drive, Old
Saybrook, Connecticut 06475.

Q. Good morning, Dr. Gill.

A. Good morning.

Q. My name is Andrew Laufer. I'm
an attorney. I represent Nicole Morrison
as administrator for the Estate of Roberto
Grant. I'll be asking you some questions
regarding that. Please note that all of
your responses to my questions must be in
verbal form. No nodding or shaking of the
head as the Court Reporter can't take that
down.

I know that you've probably

1 DR. J. GILL
2 heard all of these instructions before but
3 as a matter of course, I'm just going to go
4 through them again. Please wait for me to
5 ask my question first before you begin your
6 response as the Court Reporter can't take
7 us down at the same time. If, at any time,
8 you want to take a break, speak with
9 Counsel or for any other reason, that's
10 just fine. Dr. Gill, are you currently
11 employed?

12 A. Yes, I am.

13 Q. Where are you currently
14 employed?

15 A. The State of Connecticut.

16 Q. In what capacity?

17 A. I'm a chief medical examiner
18 for the State of Connecticut.

19 Q. Can you briefly describe for
20 me, even though it seems obvious, what your
21 duties and responsibilities are, in
22 general?

23 A. I have administrative duties at
24 the office but I also perform death
25 investigations and autopsies.

1 DR. J. GILL

2 Q. Does the State of Connecticut
3 allow you to be hired privately in matters
4 such as this?

5 A. Yes.

6 Q. Were you, in fact, hired by the
7 United States Attorney's Office to act as
8 an expert on their behalf in this case?

9 A. Yes, I was retained by them.

10 Q. Were you paid for this
11 retention?

12 A. Yes.

13 Q. How much were you paid?

14 A. I think so far, I probably
15 billed about 7,000 dollars or something in
16 that ballpark.

17 Q. Have you worked for the United
18 States Attorney's Office before?

19 A. I've been called to testify for
20 them before and I have been retained by
21 them before, yes.

22 Q. Do you recall how many times?

23 A. No.

24 Q. How long have you been -- I'm
25 assuming that you're a forensic pathologist

1 DR. J. GILL

2 as well, correct?

3 A. Correct.

4 Q. How long have you been a
5 forensic pathologist for?

6 A. Since July -- well, since '97,
7 '98. I think I got boarded in '98.

8 Q. That was my next question, are
9 you board certified as a forensics
10 pathologist?

11 A. Yes.

12 Q. Where are you board certified?

13 A. By the American academy of --
14 sorry, the American Board of Pathology,
15 board of anatomic and forensic pathology.

16 Q. What state or states are you
17 licensed to practice medicine?

18 A. New York and Connecticut.

19 Q. Have you practiced medicine in
20 New York before?

21 A. Yes.

22 Q. In the capacity of prior
23 employment by the United States Attorney's
24 Office, have you been retained revolving
25 wrongful death cases?

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DR. J. GILL

A. I think most of them are kind of criminal matters but yeah, I think generally, they're criminal.

Q. Not in the civil realm so much?

A. Not so much, no.

Q. Have you given testimony in the civil realm in relation to wrongful death cases in your career?

A. Yes.

Q. Can you approximate how many times?

A. I'm not sure -- for wrongful death, you mean a malpractice type thing?

Q. Anything. Yeah, malpractice or you know, murder or anything.

A. It probably -- yeah, dozens of times.

Q. You've testified in various different jurisdictions?

A. Yes.

Q. Outside of Connecticut and New York?

A. Correct.

Q. In conjunction with this

1 DR. J. GILL

2 particular matter, were you provided any
3 types of materials by the United States
4 Attorney's Office to review which you used
5 in the formation of your opinions in your
6 report of February 5th, 2021?

7 A. Yes.

8 Q. Could you tell me what
9 materials you were provided by the United
10 States Attorney's Office?

11 A. Sure. I'm going to refer to my
12 reports.

13 Q. That's fine. I guess for the
14 record, we'll agree that we're all looking
15 at your report right now of February 5th of
16 2021?

17 A. Correct.

18 MS. SIMON: Just do you want to
19 mark that as an exhibit just for
20 clarity later?

21 MR. LAUFER: Why don't we mark
22 that as Plaintiff's Exhibit 1?

23 (Whereupon, Dr. Gill's February
24 5th, 2021 Report was marked as
25 Plaintiff's Exhibit 1 for

1 DR. J. GILL

2 identification as of this date by the
3 Reporter.)

4 Q. Are you ready for me?

5 A. Yep.

6 Q. Okay, just tell me the
7 documents that you reviewed in furtherance
8 of writing your report of February 5th that
9 was provided to you?

10 A. Yes, so the New York City
11 Office of Chief Medical Examiner, their
12 autopsy report, neuropathology report, case
13 notes, essentially a file that they sent
14 including the autopsy images and the
15 radiographs and the autopsy notes,
16 toxicology reports, the OCME hospital
17 report of death form, medical records from
18 New York Presbyterian Hospital, Bureau of
19 Prisons and Health Services' medical
20 records, the FBI 302 investigative reports,
21 inmate incident report, Metropolitan
22 Correction Center staff memos, New York
23 State Department of Correctional Services
24 health services and the plaintiff
25 disclosure.

1 DR. J. GILL

2 Q. Were these the complete
3 documents and all of the information that
4 you reviewed and you used to form the basis
5 of your report?

6 A. I believe so, yes.

7 Q. Is there anything else that you
8 used aside from what you have listed here?

9 A. No.

10 Q. Did you take any notes during
11 the course and scope of drafting this
12 report?

13 A. No.

14 Q. Did you take any notes in
15 preparation for this deposition today?

16 A. No.

17 Q. Did you make any notes at all
18 in your review of this particular incident?

19 A. No.

20 Q. So let's start with regard to
21 what you had actually reviewed. Could you
22 tell me what synopsis you came up with with
23 regard to what occurred regarding Mr.
24 Grant?

25 MS. SIMON: Objection. You

1 DR. J. GILL

2 should be more -- I'm not quite sure
3 what you mean by what synopsis. You
4 have his report.

5 MR. LAUFER: Right, I want to
6 kinda go through his report and I was
7 going to start asking him a few other
8 questions about his conclusions.
9 We're not getting to his opinions
10 yet. All right, let me rephrase
11 that. That might be better.

12 Q. What information, from the
13 documents that you've just listed, did you
14 use to derive the synopsis that you list
15 here on Page 1 of your report?

16 A. Well, it varied. I mean there
17 are different parts that went into
18 different parts of the report.

19 Q. Fine. It seems as if you
20 focused on his medical history of cardiac
21 issues. Chest pain, shortness of breath,
22 things of that nature from about five years
23 prior to this incident, is that correct?

24 MS. SIMON: Objection to form.

25 A. I did describe his past medical

1 DR. J. GILL

2 history of intermittent chest pain and
3 shortness of breath with exertion and his
4 anemia, yes.

5 Q. Right. And that was diagnosed
6 back in May of 2010, correct, according to
7 your report?

8 A. I don't recall the exact dates
9 but yeah, he had a treadmill test on --
10 2011.

11 Q. That was a normal stress test,
12 is that correct?

13 A. Correct.

14 Q. With regard to cardiac issues,
15 they can resolve, is that correct, during
16 the course and scope of someone's life?

17 A. It depends upon the cardiac
18 event that you're talking about.

19 Q. I'm talking about specifically
20 what's referred to here regarding Mr.
21 Grant. These types of issues with regard
22 to what you had listed as his past medical
23 history, shortness of breath with exertion,
24 those types of things can resolve, can they
25 not? Naturally.

1 DR. J. GILL

2 A. Well, they're intermittent. So
3 they can come and go.

4 Q. It's not something that's
5 chronic that can be there for the rest of
6 his life necessarily?

7 A. It depends what's causing them.
8 If what's causing them is a chronic
9 disease, then yeah, they're going to be
10 coming and going.

11 Q. I'll represent to you that my
12 client was found unconscious on May 18th,
13 2015 at approximately 23:40 hours within
14 his tier. CPR was performed on him. Can
15 you describe for me how one properly
16 performs CPR, what technique is used?

17 A. You know, it's getting a little
18 bit out of my area of expertise. I mean
19 obviously, I've had training in CPR many
20 years ago but in general, you follow the
21 ABC's. Airway, breathing, circulation and
22 you try and maintain the ventilation and
23 oxygenation as well as the circulation.

24 Q. But you did opine that in your
25 report, did you not, that some of Mr.

1 DR. J. GILL

2 Grant's, if not all of Mr. Grant's neck
3 injuries, were caused by the performance of
4 CPR on him, did you not?

5 A. Yes, I did.

6 Q. What is your understanding of
7 how to perform CPR properly?

8 A. Well, proper CPR means that
9 you're able to continue the circulation and
10 ventilate the patient.

11 Q. How does one go about doing
12 that, specifically?

13 A. Well, I mean there's a whole
14 algorithm and protocol but you establish an
15 artificial ventilation respiratory system
16 and then you try and either convert the
17 heart back into a normal rhythm with
18 electricity or you do CPR or chest
19 compressions to try and maintain the
20 circulation.

21 Q. Chest compressions means
22 putting pressure on the chest cavity itself
23 to restart a sinus rhythm, is that correct?

24 A. No.

25 Q. What does it mean then? You

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DR. J. GILL

can describe for me what that means.

A. It means you're trying to just pump the heart yourself with your hands. It has nothing to do with the rhythm or restarting it but you need electricity to do that. You're trying to keep the heart pumping by pushing on it, by pumping the blood to the brain and so forth to keep the circulation artificially maintained until you can restart the heart.

Q. What about clearing airwaves, is that part of doing CPR?

A. Assessing the airway, making sure there's no blockages initially and then yes -- then you need to -- because the person's not breathing, you need to artificially get air into their lungs and get it back out. So that would be part of CPR.

Q. How does one go about doing that?

A. There are a variety of ways. You can do mouth-to-mouth resuscitation or you can put in a breathing tube or a mask

1 DR. J. GILL

2 with a bag to try and do that.

3 Q. Do you know how that was done
4 while first responders initially found Mr.
5 Grant and instituted CPR on him, as the one
6 you did in your report?

7 A. As I recall, there was mention
8 of a masked tube that was forcibly,
9 initially put in. Ultimately, he did have
10 an endotracheal tube because that was what
11 was found at autopsy.

12 Q. Well, the endotracheal tube is
13 usually put in at the hospital or by EMS,
14 is it not?

15 A. It can be a medic/ambulance
16 person, hospital, yes.

17 Q. The EMT or something like that.
18 Did you read any information that
19 mouth-to-mouth resuscitation was actually
20 performed on my client?

21 A. I don't recall seeing anything
22 about mouth-to-mouth resuscitation, no.

23 Q. While performing some sort of
24 mouth-to-mouth resuscitation, does that
25 require compression be placed on either

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DR. J. GILL

side of the victim's neck against where the carotid arteries are located?

A. You may put tracheal pressure when you're intubating someone but as far as mouth-to-mouth, no.

Q. Does that also mean putting pressure on the trachea itself externally to perform mouth-to-mouth resuscitation?

MS. SIMON: Objection to form. Can you clarify what we're talking about, are we talking about -- maybe you can just re-ask that one.

Q. When performing CPR, mouth-to-mouth resuscitation is part of doing that, performing that activity, putting pressure on the trachea externally?

A. No, that wouldn't be part of it.

Q. How about putting pressure on the hyoid bone?

A. No, that wouldn't be part of it.

Q. Now merely because someone may have a chronic condition like a heart

1 DR. J. GILL

2 condition or high blood pressure for that
3 matter, I believe Mr. Grant suffered from
4 high blood pressure, that doesn't mean that
5 that is necessarily the cause of one's
6 death, would you agree with that statement?

7 A. It's a potential cause and you
8 need to look at the entire case and put it
9 all together to make the final diagnosis.

10 Q. Potential, sure, but someone
11 could also be murdered too. I mean if
12 there's evidence to show that maybe they
13 suffered blunt force trauma or
14 strangulation, would you agree with that?

15 A. That's why I said you need to
16 look at the whole picture, correct.

17 Q. Strangulation can also cause
18 cardiac arrest, can it not?

19 A. Cardiac arrest means you're
20 dead so anything that's going to cause your
21 death is going to cause cardiac arrest.

22 Q. Of course, and strangulation is
23 one of those things as well, right?

24 A. Yes.

25 Q. Can strangulation also cause a

1 DR. J. GILL

2 compression of the hyoid bone?

3 A. Yes, it can.

4 Q. Mr. Grant's hyoid bone was
5 found to be compressed in this particular
6 instance, was it not?

7 A. I don't think I can make that
8 conclusion.

9 Q. Did you review the medical
10 reports and the notes, as you stated
11 earlier, and the coroner's report?

12 A. Yes, I did.

13 Q. Did you notice, in any of those
14 documents, that there was compression of
15 the hyoid bone?

16 A. There's hemorrhage around the
17 hyoid bone but that doesn't necessarily
18 mean compression.

19 Q. I understand that but did you
20 review any documents which stated that
21 there was compression of the hyoid bone?
22 That's my question to you.

23 A. I don't recall. You would have
24 to point it out to me. I don't recall
25 specifically.

1 DR. J. GILL

2 Q. You would agree that a hyoid
3 bone doesn't necessarily need to fracture
4 in order for someone to be choked to death?

5 A. That's correct.

6 Q. It can be just merely
7 compressed, is that correct?

8 A. Correct.

9 Q. Would you agree that
10 pericarotid artery hemorrhages bilaterally
11 is not usually something that occurs when
12 performing CPR?

13 A. Again, let's be clear about
14 CPR. I mean if you're talking about CPR,
15 which includes potentially intubation and
16 so forth, then I would say yes, it can
17 happen but if you're just talking about
18 mouth-to-mouth resuscitation, I would say
19 no.

20 Q. Do you know whether or not Mr.
21 Grant was intubated while he was at the
22 prison?

23 A. I recall a mask with some type
24 of tube that was placed in it but I don't
25 know when the actual intubation happened.

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DR. J. GILL

Q. How about distention of neck veins and temporal vessels, would that occur during the performance of CPR?

A. Yes.

Q. How about petechial hemorrhages of the eyes and soft tissue and muscle, would that occur as a result of the performance of CPR?

A. Yes.

Q. Could that also occur when someone's being strangled?

A. Yes.

Q. Can distention of the neck, veins and temporal vessels also occur as a result of someone being strangled?

A. Yes.

Q. You also stated, in your opinion, that there was some minor blunt injuries, hemorrhages under the scalp but there was more than just hemorrhages under the scalp with regard to blunt force trauma in this instance, wasn't there?

A. There was some bruising I think at the shoulder. I'm not sure what else.

1 DR. J. GILL

2 There were no fractures or anything like
3 that.

4 MR. LAUFER: I understand. I'm
5 going to draw your attention -- we'll
6 mark it as Plaintiff's 2 -- the
7 Office of the Medical Examiner, City
8 of New York autopsy report.

9 (Whereupon, Office of the
10 Medical Examiner, City of New York
11 Autopsy Report was marked as
12 Plaintiff's Exhibit 2 for
13 identification as of this date by the
14 Reporter.)

15 Q. Let me know when you're ready.

16 A. Yes, I'm ready.

17 Q. You would notice under final
18 diagnosis, the first page here. Number 1,
19 blunt force trauma of head, neck, torso and
20 extremities. You would agree that that's a
21 little bit greater than what you had stated
22 in your report as under Number 5, the
23 conclusion, there were minor blunt
24 injuries?

25 MS. SIMON: Objection.

1 DR. J. GILL

2 A. No. I mean that's describing
3 where they are but I mean it's degree of
4 the blunt injuries that I'm talking about.
5 Not to where they are, no.

6 Q. Well, you would agree that
7 head, neck, torso and extremities covers
8 basically the entire body, does it not?

9 A. Well, it doesn't cover all the
10 extremities but some of the extremities,
11 yes.

12 Q. Well, they say extremities.
13 They don't specify, do they?

14 MS. SIMON: Objection.

15 A. I don't know. You would have
16 to look through the actual diagnosis.

17 Q. Let's go down to M. They have
18 a conclusion of final diagnosis of
19 hemorrhage, left forearm muscle, right
20 elbow. Left forearm muscle -- it looks
21 like five inch hemorrhage. Would you agree
22 with that?

23 A. I have no reason to disagree
24 with it.

25 Q. Right elbow, a half inch

1 DR. J. GILL

2 hemorrhage?

3 A. Correct.

4 Q. Left shoulder, four inch
5 hemorrhage?

6 A. Correct.

7 Q. Right lateral chest soft
8 tissue, one inch hemorrhage, would you
9 agree with that?

10 A. Yes.

11 Q. Would you agree that those
12 injuries are significant?

13 A. It depends what you mean by
14 significant.

15 Q. Well, as to type of blunt force
16 as to the fact that the decedent suffered
17 from blunt force trauma.

18 A. I'm not sure that they're all
19 due to blunt force trauma, frankly.

20 Q. Well, I understand that but
21 this is the conclusion of the New York City
22 medical examiner's office that these
23 hemorrhages existed?

24 A. Correct.

25 Q. That in general, when someone

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DR. J. GILL

suffers a heart attack, they don't have this type of hemorrhage, the way it's described here under M, throughout their body, does it?

A. It depends. It depends on many factors.

Q. There was also a tracheal ring hemorrhage under Letter H and they're claiming it's large, the medical examiner's office. What causes that?

A. Force to that area, blunt force.

Q. Could that also include strangulation?

A. It could include that, yes.

Q. There's also evidence of deep lung pericardial laceration, one inch, left lower lobe. Could that also be caused by blunt force trauma?

A. By definition, a laceration is blunt force trauma. I think that injury is actually an artifact of the autopsy. I just can't see how you could get a laceration to surface at the lung without a

1 DR. J. GILL

2 rib fracture frankly. So I really don't
3 know what to make of that frankly.

4 Q. Well, I mean it's possible that
5 that can happen if someone is struck in the
6 ribs, could it not?

7 A. To lacerate the lung, no. I
8 mean you may get some bruising but you're
9 not going to lacerate the lung from a blow
10 to the chest, no.

11 Q. Well, not necessarily to the
12 chest. You don't need to blow someone to
13 the chest. They could be struck at the
14 torso, the rib level multiple times and
15 that can cause that type of injury, could
16 it not?

17 A. Not a laceration, no.

18 Q. You would agree that the
19 toxicology report was negative with regard
20 to any drugs found in my client's system,
21 correct?

22 A. I would agree that they did not
23 detect any drugs in the system.

24 Q. You're aware of what standard
25 of care is, right, the phrase standard of

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DR. J. GILL

care?

A. In general.

Q. Back in 2015, the type of tests that were run by those examining Mr. Grant's body were the ones that were generally used in the course and scope of making these kinds of determinations with regard to any kind of toxicology?

A. Yes, I think that's a fair statement.

Q. You had also stated that you had reviewed some 302's and some witness statements from the prisoners?

A. Yes.

Q. Did you find them all consistent, were there any inconsistencies in those statements about Mr. Grant prior to him collapsing?

A. Yeah, I think you're always going to find little inconsistencies but I think looking at the big picture, everything fit for me.

Q. You don't agree that while one inmate said that he was sitting down and

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DR. J. GILL

slumped over and then one inmate said that he was standing up and then fell to the ground is a significant inconsistency?

A. No.

Q. You don't find it inconsistent that one inmate said that he was having a full conversation and then fell over and another stating that he was completely silent and then slumped over?

A. No.

Q. Let's go to your opinions here. I'll ask again, we'll start with one. While you state that enlargement of heart can cause a fatal arrhythmia, there was no indication that Mr. Grant was suffering from any kind of arrhythmia or any other kind of similar condition at the time of his death?

A. I would disagree with that.

Q. That he was suffering from arrhythmia, did you review any records to show that he was suffering at the time from an arrhythmia?

A. Yeah, he had a sudden death.

1 DR. J. GILL

2 That's from an arrhythmia.

3 Q. Well, I understand that's your
4 opinion but I'm talking about past medical
5 history. Was this something that was just
6 acute that just occurred right at his death
7 or was he suffering from an arrhythmia;
8 prior to him passing away, did you review
9 any medical records that had indicated
10 that?

11 A. There wouldn't be any medical
12 records showing an arrhythmia. What you're
13 looking for is anatomical substrate that
14 would explain an arrhythmia. I can't see
15 -- no one can see an arrhythmia at autopsy.
16 So you're looking for a disease that's the
17 extent -- that would explain a sudden
18 cardiac death and he has two components of
19 that, the hypertensive cardiovascular
20 disease which by itself, would explain a
21 sudden death. I've seen people drop dead
22 with this exact same heart disease. As
23 well as the coronary artery disease. So he
24 has two types of heart disease that both
25 can cause a sudden unexpected death --

1 DR. J. GILL

2 Q. Right, but --

3 A. -- cause a sudden arrhythmia.

4 Q. I apologize for interrupting
5 you. You could also detect diagnostically
6 an arrhythmia, could you not, a heart
7 arrhythmia prior to someone dropping dead?

8 A. Well, I mean if you have an EKG
9 hooked up to them, you can. Sure.

10 Q. An EKG is something that would
11 detect something like that, would it not?

12 A. That's what it's meant to do,
13 check the heart rhythm. Yes.

14 Q. If someone is suffering from
15 atrial fibrillation or any other kind of
16 heart pathology, an EKG would do that,
17 would it not?

18 MS. SIMON: Objection. Maybe
19 you can just clarify, you're talking
20 about before someone dies. If you
21 could indicate in your question at
22 what point in time that we're talking
23 about.

24 MR. LAUFER: Any time. It
25 doesn't matter.

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DR. J. GILL

Q. Before they die, if they're hooked up to an EKG machine, especially someone with a history of heart issues, this would be something that would be done periodically, would it not, to ascertain the rhythm of the heart?

A. Yeah, people can have a completely normal EKG during their -- when they're not symptomatic or not having a problem. When you're having this irregular rhythm, it's like turning off a light switch. You have a totally normal rhythm and then all of a sudden, it goes into an irregular rhythm and the person loses consciousness and dies.

Q. I completely understand --

A. So an EKG, a minute before this happened was probably going to show a normal rhythm.

Q. That's not my question. My question is was there any indication in this gentleman's history, Mr. Grant's history, where an EKG demonstrated that he was suffering from a heart arrhythmia?

1 DR. J. GILL

2 A. No, and that's not unusual. We
3 don't -- many people have normal EKG's and
4 then drop dead with that normal EKG the
5 next day.

6 Q. But many individuals who also
7 drop dead, as you had described, also don't
8 have blunt force trauma throughout their
9 body, do they?

10 MS. SIMON: Objection to form.

11 A. Some of them do.

12 Q. You're saying that someone
13 whose arrhythmia was never detected and they
14 suddenly just collapse and die and
15 throughout their body, they suddenly have
16 blunt force trauma throughout their head,
17 torso and extremities?

18 A. I mean I think throughout their
19 body -- technically, you're correct but
20 we're talking about a little hemorrhage in
21 the arm which is probably from a
22 intravenous line that they put. He had a
23 collapse which could cause injury. We see
24 blunt injuries on people with unprotected
25 falls from cardiac deaths everyday. When

1 DR. J. GILL

2 someone has a cardiac event, they collapse,
3 they hit their head on the floor. They get
4 a laceration. That is very common to see.
5 We're not talking about bruises all over
6 the place, fractures, lacerations,
7 abrasions. We're talking about some
8 bruising.

9 Q. I understand that. Some
10 bruising not just to the left forearm
11 muscle -- which is five inches, which is
12 large -- right elbow, left shoulder and
13 right lateral chest soft tissues. We're
14 not just talking about one on his arm,
15 we're talking about throughout his body. I
16 mean you would agree that the medical
17 examiner's report is probably the most
18 accurate about what occurred here, would
19 you not?

20 A. It certainly describes the
21 injuries but you know, the elbow is a
22 common place for a falling type injury. A
23 person collapses, their elbow hits
24 something. Their shoulder, you see -- you
25 can see hemorrhage on the chest from CPR.

1 DR. J. GILL

2 So they're all blunt injuries because it's
3 blunt force even though it's from CPR.

4 Q. How about hyoid bone
5 compression; would you agree that people
6 that usually collapse suddenly from this
7 type of an affliction, that you're basing
8 your opinion on, generally don't have
9 compression of their hyoid bone?

10 A. Again, they generally don't
11 have hemorrhage or compression around the
12 hyoid bone unless they've been attempted at
13 resuscitation.

14 Q. They generally don't have
15 petechial hemorrhages of the eyes and
16 preorbital soft tissue and muscle, you
17 would agree with that, right, generally?

18 A. It depends what they're dying
19 of. You can get petechia from other
20 causes.

21 Q. Right, like oxygen deprivation
22 could cause that, could it not?

23 A. No.

24 Q. How about straining from being
25 choked to death, could that cause those

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DR. J. GILL

types of afflictions?

A. It's more of an interruption in the blood supply to the head where you're interfering with the blood returning to the heart. That's what causes petechia.

Q. And strangulation could cause that, could it not?

A. Yes.

Q. Pressure on the carotid arteries could prevent blood from going to the brain, could it not?

A. Correct.

Q. That could cause these types of injuries, could it not?

A. No. Pressure on the carotid artery wouldn't cause petechia.

Q. Bilaterally on the carotid artery and the trachea?

A. No.

Q. Your basis on saying that the decedent was lucid before he died was just on the statements of prisoners, was it not?

A. Yes.

Q. Not on any medical personnel?

1 DR. J. GILL

2 A. I don't think there were any
3 medical personnel there.

4 Q. Let's talk a little bit about
5 the toxicology report, your finding under
6 Number 4. You stated that no synthetic
7 cannabinoids were detected in the
8 toxicology test. You would agree with
9 that, right?

10 A. Correct.

11 Q. In 2014, there were over 170
12 different known synthetic cannabinoids.
13 You would agree with that statement,
14 correct?

15 A. Yes.

16 Q. But you understand that the
17 year of death was 2015, was it not?

18 A. Yes.

19 Q. Did the testing change from
20 2014 to 2015 with regard to testing for
21 synthetic cannabinoids?

22 A. I think we're talking about two
23 different things. MS was -- what they
24 tested for in 2015 were for 32 of them but
25 prior to that testing, there were over 170.

1 DR. J. GILL

2 They just didn't test for all 170. They
3 only tested for 32 of them.

4 Q. But you would agree that that
5 was a standard that NMS Labs would use in
6 testing for cannabinoid use back in 2015?

7 A. From the report, those are the
8 ones that they were able to detect. They
9 weren't able to detect all 170.

10 Q. I understand that but they also
11 may not have found it necessary to test for
12 170 because they may have been similar
13 enough to the 32 general ones that they
14 tested for, is that correct?

15 MS. SIMON: Objection to form.

16 Q. You can answer the question.

17 A. I think it's getting a little
18 bit out of my area of expertise but my --
19 any toxicology lab is -- the more they can
20 test and identify, they will. I mean I've
21 spoken to people at NMS and they're looking
22 to try and be able to identify more and
23 more of these but it's tough to get samples
24 and so forth.

25 Q. Well, synthetic cannabinoids

1 DR. J. GILL

2 are also outside the scope of your
3 expertise, is it not?

4 A. No.

5 Q. Well, in terms of how many
6 there are, in terms of use and how they're
7 ingested and things of that nature, is that
8 within your expertise?

9 A. Yeah, that's apart of forensic
10 pathology. We see people abuse these and
11 we have to be able to test for them and
12 diagnose them and interpret them. Sure.

13 Q. Now let's go to Number 5. You
14 said there was minor blunt injuries,
15 hemorrhages under the scalp of the head but
16 none of them caused or contributed to
17 death. You would agree that the New York
18 City examiner's report didn't refer to any
19 of the blunt force trauma suffered by Mr.
20 Grant as minor, would you not?

21 A. I would have to look at the
22 report.

23 Q. But you reviewed the report in
24 furtherance of drafting your report, did
25 you not?

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DR. J. GILL

A. Yes, I did.

Q. Let's go to Paragraph 6. Now
do you know the plaintiff's expert, Dr.
Hua?

A. Yes.

Q. Have you worked with him in the
past?

A. Yes.

Q. What is your opinion of Dr.
Hua?

A. He's a New York board certified
forensic pathologist.

Q. Do you respect his work?

A. I'm not that familiar with all
his work.

Q. How about the medical examiner,
Jennifer L. Hammers, are you familiar with
her?

A. Yes.

Q. Have you worked with her
before?

A. Yes.

Q. Do you respect her work?

A. From the report I've seen here,

1 DR. J. GILL

2 it seems pretty complete.

3 Q. You don't think that she
4 misrepresented anything or lied or anything
5 like that in the report?

6 A. No.

7 Q. You mentioned in this Paragraph
8 6, hypertensive and/or atherosclerotic
9 cardiovascular disease are well-recognized
10 as causes of sudden death. You stated
11 that, correct?

12 A. Yes.

13 Q. But it doesn't necessarily mean
14 that that is what Mr. Grant passed away
15 from, this is just your opinion?

16 A. No, those are facts. I mean
17 people die everyday from those diseases and
18 it's a matter of looking at the whole
19 picture and putting it all together and not
20 just -- you can't look at the autopsy in a
21 vacuum. You need to look at the
22 circumstances surrounding it otherwise, you
23 may misinterpret findings at autopsy.

24 Q. Like the various blunt force
25 trauma the decedent may have suffered from,

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DR. J. GILL

correct?

A. There's blunt force trauma there. The question is what caused it.

Q. Bilateral compression of the carotid arteries, correct?

A. There's hemorrhage around the carotid arteries.

Q. And the tracheal rings as well?

A. Correct.

Q. The petechial hemorrhages of the eyes and soft tissues, you would agree that that's significant as well, correct?

A. It can be. We see it pretty frequently. Again, you need to interpret those in the context of the entire case.

Q. You would agree that the medical records that you reviewed regarding Mr. Grant's cardiovascular issues were from 2010 and 2011, is that correct?

A. I believe so, yes.

Q. Did you review any other cardiovascular medical records or history regarding Mr. Grant's heart from 2011 to the date of his death in 2015?

1 DR. J. GILL

2 A. I mean the autopsy report which
3 showed it but no, I don't remember any
4 other medical records.

5 Q. So there's a four year gap
6 there up until the autopsy report, is there
7 not, regarding any type of history
8 regarding Mr. Grant's heart?

9 A. I don't recall all the dates
10 but that's probably fair.

11 Q. I'm going to turn to some prior
12 deposition testimony that you gave in
13 previous cases. I noticed that on your CV,
14 I don't think that you listed any of your
15 prior deposition testimony, is that
16 correct?

17 A. No, correct.

18 Q. I would like to draw your
19 attention to a case from the appellate
20 court of Illinois, Greco, the Orthopedic
21 and Sports Medicine Clinic, PC, do you
22 recall testifying at trial for this
23 particular case back in 2015?

24 A. Yes.

25 Q. Do you recall giving testimony

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DR. J. GILL

similar to the testimony that you gave or
similar to the report that you gave here in
this case regarding sudden death from
cardiovascular disease?

MS. SIMON: Objection.

A. I don't recall.

Q. Do you recall the Court finding
your testimony had great potential to
mislead a jury about causation and invited
the Jury to speculate about the decedent's
death related to an ankle injury?

A. I don't recall any of that, no.

Q. Do you recall the Court stating
that Dr. Gill's testimony floated about
untethered and invited nothing more than
inappropriate speculation about the cause
of decedent's death?

A. I don't recall that.

Q. Do you recall giving testimony
that the individual in this particular case
died from a pulmonary embolism due to a
DVT?

A. I recall -- I think it was a
pulmonary embolism case but yes, that's all

1 DR. J. GILL

2 I remember.

3 Q. Do you recall if that's similar
4 to what you're saying here, like a sudden
5 death of pulmonary embolism can cause
6 sudden death?

7 A. That's one cause of sudden
8 death, sure. Pulmonary thrombotic
9 embolism, yeah.

10 Q. You had testified that a
11 severely sprained ankle started a chain of
12 events leading to the DVT?

13 MS. SIMON: Objection.

14 A. Again, I don't recall all the
15 specifics.

16 MS. SIMON: If you want to put
17 his testimony in front of him rather
18 than summarizing it, I don't think
19 that's -- that may be the better way
20 to go about this. If you'd like him
21 to look at the testimony, I --

22 MR. LAUFER: I'm reading from a
23 court opinion from the appellate
24 division that overturned this case.
25 They're basing their overturning this

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DR. J. GILL

case -- I'll give you the cite too so
that you can look it up.

MS. SIMON: I'm suggesting that
if you would like to ask the Witness
questions about it, provide him with
the documents so he can --

MR. LAUFER: Well, I mean he
testified in this case so he should
-- if he doesn't remember it, he can
just say that he doesn't remember.
That's fine.

MS. SIMON: Okay.

Q. Would you agree or disagree
with this: Fatal natural disease is
different from natural disease?

A. Can you repeat that?

Q. Fatal natural disease is
different from a natural disease, someone
suffering from a natural disease?

A. Yeah, I mean fatal natural
disease is natural disease that causes
death, you know.

Q. Someone could have some sort of
affliction that they're suffering from like

1 DR. J. GILL

2 high blood pressure but it may not
3 necessarily cause their death?

4 A. That's why we do autopsies and
5 investigations to try and sort all those
6 out, right?

7 Q. Yeah, but in general, you would
8 agree with that statement?

9 A. Yeah, people can have multiple
10 potential causes of death and we need to do
11 the investigation to figure out what the
12 actual cause is.

13 Q. You would agree that the
14 findings from the medical examiner, with
15 regards to the negative toxicology finding,
16 means that he did not die from anything
17 related to synthetic cannabinoid use?

18 MS. SIMON: Objection.

19 A. No.

20 Q. So you're disagreeing with Dr.
21 Hammer's conclusion then?

22 A. I'm disagreeing with the way
23 you phrased it. None were detected but
24 that doesn't mean -- there potentially
25 could have been synthetic cannabinoids

1 DR. J. GILL

2 there.

3 Q. Well, there could potentially
4 have been anything in his blood. I mean we
5 could go theorize till the ends of the
6 earth. It doesn't necessarily mean that
7 they were related to his death.

8 A. I didn't say that they were. I
9 think he was going to die whether or not he
10 had synthetic cannabinoids or not. If they
11 were there, that certainly would have
12 helped. I think it certainly wouldn't hurt
13 but again, the way you had phrased it is
14 what I took issue with, that it was
15 negative for synthetic cannabinoids. It
16 wasn't. The ones that they tested for,
17 they did not detect.

18 Q. So again, I'll revisit this.
19 Merely because someone may have high blood
20 pressure, and it's a non-fatal status,
21 doesn't mean that it suddenly became an
22 acute fatal status, is that correct?

23 MS. SIMON: Objection.

24 A. Hypertensive cardiovascular
25 disease is a potentially fatal disease by

1 DR. J. GILL

2 itself. We see it happen very commonly and
3 it doesn't mean that -- you can't predict
4 when it's going to happen but it is a
5 potentially fatal disease.

6 Q. You can't predict when it's
7 going to happen but you can't predict if
8 it's going to happen either, would you
9 agree with that?

10 A. I can't predict in anyone what
11 they're going to die from, no.

12 Q. Let's hope we don't suddenly
13 find ourselves imbued with that power. I
14 think that we had talked a little bit about
15 the blunt force trauma. You would agree
16 that in Dr. Hammer's autopsy report,
17 there's no indication that he suffered from
18 mere minor blunt trauma, she doesn't use
19 that terminology, does she?

20 MS. SIMON: Objection, asked
21 and answered. If you would like him
22 to review the report and see if that
23 term is used, we can take a minute
24 and do that.

25 MR. LAUFER: That's fine.

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DR. J. GILL

A. I don't see the words mild -- she uses the word focal in describing some of the hemorrhages and she said she measures them which is, I think, appropriate but when you're interpreting the overall picture, then I think it is fair to use that term of there were minor blunt injuries. Certainly these weren't fractures and lacerations of the aorta and sorts of things like that.

Q. She also stated under the cardiovascular system of the report that there was no recent thrombosis. Can you agree with that?

A. Yes, I have no reason to doubt that.

Q. What is your understanding of what thrombosis is?

A. It's a blood clot in the -- she's talking about in the coronary arteries.

Q. You would agree that the sudden death scenario that you've put forth here usually involve blood clots, do they not?

1 DR. J. GILL

2 A. No, I'd disagree with that.

3 Q. But one of these sudden deaths
4 examples that you gave can deal with blood
5 clots, right?

6 A. Yeah, a thrombus in a coronary
7 artery is -- certainly can cause sudden
8 death, yes.

9 Q. And that the coronary arteries
10 are without significant arterial sclerosis,
11 did you find that significant in any way?

12 A. The remaining coronary arteries
13 are without significant atherosclerosis but
14 the left main has a 50 percent blockage
15 narrowing.

16 Q. The first one is a slight 50
17 percent atherosclerotic stenosis of the
18 left main coronary artery, right?

19 A. That's what she describes, yes.

20 Q. Not a major or moderate?

21 A. She uses slight, correct.

22 Q. Do you know what NMS stands
23 for?

24 A. Yes.

25 Q. What is that?

1 DR. J. GILL

2 A. It's the name of the toxicology
3 -- National Medical Services I believe it
4 is.

5 Q. Is that toxicology organization
6 used by most of the medical examiners
7 around the country?

8 A. I don't know if it's used by
9 most but we certainly use it.

10 Q. You rely on their findings in
11 determining aspects of your medical
12 examining reports, do you not?

13 A. Yes.

14 Q. Do you feel that they made any
15 mistakes with regard to this particular
16 autopsy toxicology aspects report?

17 A. Do I think they made any
18 mistakes?

19 Q. Yeah.

20 A. No, I don't see any mistakes.
21 I'm not an analytical toxicologist but I
22 trust their work.

23 MR. LAUFER: I have nothing
24 further at this time.

25 MS. SIMON: If you could just

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DR. J. GILL

give us a minute and let me look at
my notes. Just give us five minutes.

(Whereupon, a brief recess was
taken at 10:57 a.m. and the
examination resumed at 11:02 a.m.)

MS. SIMON: Thanks for that.
We don't need to go back on the
record. I think that's it.

(Whereupon, at 11:02 A.M., the
Examination of this witness was
concluded.)

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D E C L A R A T I O N

I hereby certify that having been
first duly sworn to testify to the truth, I
gave the above testimony.

I FURTHER CERTIFY that the foregoing
transcript is a true and correct transcript
of the testimony given by me at the time
and place specified hereinbefore.

DR. JAMES GILL

Subscribed and sworn to before me
this ____ day of _____ 20____.

NOTARY PUBLIC

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E X H I B I T S

PLAINTIFF'S EXHIBITS

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	PAGE
Exh 1	Dr. Gill's February 5th, 2021 Report	9
Exh 2	Office of the Medical Examiner, City of New York Autopsy Report	23

(Exhibits were retained by court reporter)

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EXAMINATION BY	PAGE
MR. LAUFER	5

STATE OF NEW YORK)
 : SS. :
COUNTY OF KINGS)

That the witness whose examination is hereinbefore set forth was duly sworn and that such examination is a true record of the testimony given by that witness.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 24th day of March 2021.

George Lynch

LENAYA LYNCH

CASE NAME: Morrison, Nicole, Et Al. v. Usa, Et Al.
DATE OF DEPOSITION: 3/24/2021
WITNESSES' NAME: Dr. James Gill

[illegible]

SUBSCRIBED AND SWORN TO BEFORE ME
THIS _____ DAY OF _____, 20__.

MY COMMISSION EXPIRES:

[& - asking]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and
(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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